



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 117th CONGRESS, FIRST SESSION

Vol. 167

WASHINGTON, FRIDAY, JANUARY 22, 2021

No. 13

House of Representatives

The House was not in session today. Its next meeting will be held on Monday, January 25, 2021, at 1:30 p.m.

Senate

FRIDAY, JANUARY 22, 2021

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. LEAHY).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Sovereign King, our hope for years to come, deliver us from the sin of running from the truth. Remind us often that truth brings freedom.

Thank You that You are our helper, sustaining our lives and keeping us strong. You guide us through the wilderness and protect us through life's storms.

Lord, inspire our lawmakers to place themselves into Your hands, permitting You to fulfill Your purposes through their faithful toil. Fill them with reverential awe and give them a sanctified audacity, even when facing trials and setbacks.

We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

NATIONAL GUARD

Mr. SCHUMER. Mr. President, now, it came to our attention last night that members of the National Guard, after standing on duty to protect the Capitol for Inauguration Day, keeping us safe, were sleeping in parking garages and cramped quarters without proper space or ventilation. It was utterly unacceptable.

I have told those who run the security of the Capitol that it can never happen again, and I pledge to every National Guard member that it will not happen again.

The minute I heard about this outrage last night, we made sure it was fixed immediately. Every member of the Guard was found proper accommodations inside, and, as of this morning, everyone was accounted for and taken care of.

This morning I went over to the CVC and I spoke to a number of Guardsmen personally to make sure they were OK.

I want to thank Senators HASSAN, DUCKWORTH, KELLY, and HEINRICH for their work on this matter last night, as well as Senator LUJÁN, who went around late at night to make sure things were OK, as well. And I want to thank all the Members who were concerned and lent a hand.

I also want to particularly thank Acting Sergeant at Arms Jennifer Hemingway, who, when we told her about this situation, patrolled the floors of the Capitol Complex until past 3 a.m. to ensure that no one was left behind or not where they belonged. And she was back at her desk first thing today to follow up.

We owe an enormous debt of gratitude to the men and women who worked to keep us safe on January 6 and the days since. A situation like last night will never happen again.

BUSINESS BEFORE THE SENATE

Mr. SCHUMER. Now, I have spoken about the Senate's agenda for the next several weeks. We have three essential items on our plate: one, the confirmation of President Biden's Cabinet and other key officials; two, legislation to provide desperately needed COVID relief; three, a second impeachment trial of Donald Trump. The Senate must and will do all three—COVID relief, confirmation of nominees, and an impeachment trial.

Now, the first order of business is to fulfill our constitutional duty to advise and consent on the President's appointments to his Cabinet. This morning the Senate will vote to confirm President Biden's nominee for Secretary of Defense, Lloyd Austin. Mr. Austin will be the first African American to ever helm the Defense Department in its history—a powerful symbol of the diversity and history of America's Armed Forces.

Mr. Austin has a storied career in the Army, but those days are behind him. As Secretary of Defense, he has promised to empower and lift up his civilian staff, and I believe he will be an outstanding Secretary of Defense for everyone at the Pentagon—servicemembers and civilian employees alike.

The Secretary of Defense, of course, has a hugely important task ahead of him. He must once again demonstrate

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



Printed on recycled paper.

S95

to the world that the U.S. military will always support our friends, deter our adversaries, and, if necessary, defeat them.

Lloyd Austin is the right person for the job. He has the experience, the vision, and the competence to run the largest agency in our government. I look forward to confirming his nomination shortly.

Afterward, the Senate must continue to install President Biden's team by confirming Secretaries of State, Homeland Security, and Treasury. We need Republican cooperation to confirm these nominees, but we expect that cooperation to continue. The continuity of our national security, military, and intelligence policy, as well as our ability to effectively respond to the current health and economic crises, depend on having these Cabinet officials confirmed.

Now, as I mentioned, the Senate will also conduct a second impeachment trial for Donald Trump. I have been speaking to the Republican leader about the timing and duration of the trial, but—make no mistake—a trial will be held in the U.S. Senate, and there will be a vote on whether to convict the President.

I have spoken to Speaker PELOSI, who informed me that the article will be delivered to the Senate on Monday.

Now, I have heard some of my Republican colleagues argue that this trial would be unconstitutional because Donald Trump is no longer in office—an argument that has been roundly repudiated, debunked by hundreds of constitutional scholars—left, right, and center—and defies basic common sense. It makes no sense whatsoever that a President or any official could commit a heinous crime against our country and then be permitted to resign so as to avoid accountability and a vote to disbar them from future office. It makes no sense.

Regardless, the purveyors of this unusual argument are trying to delay the inevitable. The fact is, the House will deliver the Article of Impeachment to the Senate. The Senate will conduct a trial of the impeachment of Donald Trump. It will be a full trial. It will be a fair trial. But make no mistake, there will be a trial, and when that trial ends, Senators will have to decide if they believe Donald John Trump incited the insurrection against the United States.

Now, over the course of elections in November and January, the American people chose to retire four Republican Senators and elect a Democratic majority to this Senate. The Senate must now take the basic step of passing an organizing resolution and setting up the rules for a Senate where there are 50 Members of either party.

Luckily, we have a clear precedent for what to do in this situation. In 2001, then-Majority Leader Lott and Minority Leader Daschle came together and agreed on a set of rules to govern a 50-50 Senate. We should follow that precedent.

We have offered to abide by the same agreement the last time there was a 50-50 Senate. What is fair is fair. That is precedent. We could organize the Senate today if both sides agreed to abide by the same rules as last time.

The Republican leader, however, has made an extraneous demand that would place additional constraints on the majority—constraints that have never been in place before. In fact, his proposal would remove a tool that the Republican leader himself used twice in just the last Congress to accelerate the confirmation of Republican nominees.

Leader MCCONNELL's proposal is unacceptable, and it won't be accepted. And the Republican leader knew that when he first proposed it.

Only 2 days ago, we celebrated the inauguration of a new President and the turning over of a new leaf. The American people want us to work together and move past the meaningless political fights and gridlock that have plagued us for too long.

It is time to get to work. A first step is for the Republican caucus to agree to follow the same precedent that governed the Senate the last time around. I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. MANCHIN). The Republican leader is recognized.

NATIONAL GUARD

Mr. MCCONNELL. Mr. President, yesterday evening, we learned that some of the National Guard forces who were helping protect the Capitol Complex were being made to rest in parking garages between their shifts. I don't think a single Senator feels that was acceptable. I am glad the situation was resolved, and I hope we learn exactly what happened.

In that regard, I want to thank all the National Guard, including more than 300 Kentucky Guardsmen, and local and Federal law enforcement who helped supplement our very own Capitol Police in the wake of January 6. Your Congress and your country appreciate all you have done to secure the Capitol and the inauguration.

Later today, I will have the honor of meeting a number of my Kentuckians who have been helping out here at the Capitol. It is going to be the highlight of my day.

In the near future, Congress needs to smartly transition toward a more sustainable security presence. Keeping the Capitol safe cannot and will not require huge numbers of uniformed troops and vast systems of emergency fencing to remain in place forever. With the inauguration behind us, we should find the right middle ground between the unacceptable lapses 3 weeks ago and the extraordinary short-term measures that have been put in place

since that time. In the meantime, we need to make darn sure that we look after the men and women who look after us.

FILIBUSTER

Mr. MCCONNELL. Now, Mr. President, on a totally different matter, while business proceeds on the floor, the Democratic leader and I are continuing to flesh out the structure of this 50-50 Senate.

When Leaders Lott and Daschle wrote a similar agreement 20 years ago, there wasn't a need at all to reaffirm the basic standing rules that govern legislation here in the Senate. It was safely assumed that no majority would break this rule for short-term gain.

Floor remarks surrounding those 2001 discussions specifically cite the legislative filibuster as an important and unquestioned part of the backdrop that lay beneath the negotiations on the finer details. It was assumed no one would ever take that step.

After the fact, Leader Daschle, the Democrat, praised the legislative filibuster as a crucial rule. President Biden has praised this distinctive feature of the Senate on many occasions.

Our current Democratic colleagues used it liberally—liberally—over the last several years when they were in the minority. More than two dozen signed a bipartisan letter in 2017 saying our Republican majority should not break the rule by brute force. Let me say that again. Two dozen Democrats signed a bipartisan letter in 2017 saying our Republican majority should not break this rule by brute force. I agreed. I didn't do it. President Trump was not happy with that. He tweeted against me numerous times because I didn't put an end to the legislative filibuster. So the Democrats used it constantly, as they had every right to. They were happy to insist on a 60-vote threshold for practically every major bill I took up.

So we will continue to request that our Democratic colleagues reaffirm this standing rule of the Senate, which they have been happy to use on many occasions, I can attest. If we are going to truly replicate the 2001 agreement, we need to reaffirm this crucial part of the foundation that lay beneath it.

IMPEACHMENT

Mr. MCCONNELL. Mr. President, yesterday I also shared a proposal for the pretrial steps in the Senate impeachment process that appears to be headed our way and, as I understand it, will be headed our way on Monday. By Senate rules, if the article arrives, we have to start a trial right then.

This impeachment began with an unprecedentedly fast and minimal process over in the House. The sequel cannot be an insufficient Senate process that denies former President Trump his due process or damages the